

# HOUSE JOURNAL

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SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

TWENTIETH DAY — TUESDAY, FEBRUARY 18, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 22).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Luna; Rodriguez; Wilson.

Absent — Gallego; Goolsby.

The invocation was offered by Gloria Gillaspie, pastor, Steppingstone Family Church, Burleson, as follows:

Heavenly Father,

We give thanks for your bountiful blessings which you have generously bestowed upon us.

We acknowledge that the freedoms we enjoy come from your mighty hand.

I lift up before you these who serve in our state government. We thank you for them and pray for your blessings and protection to be upon them and their families. May you guide them with wisdom and understanding to govern with integrity and discernment to make decisions that are in accordance with your laws of truth and righteousness in order that your will and purposes be fulfilled. Impart knowledge to solve the difficult problems they face and let there be a spirit of unity as they work together to make Texas an even better place to live.

May it be even as your word has said that you have shown us what is good and what the Lord requires of us: to do justly, to love mercy, and to walk humbly with our God.

We now humbly pray for your loving kindness and favor; your blessing and peace to be upon this house of representatives and the people of Texas today.

In the name of our Lord Jesus Christ, amen.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for today and the remainder of the week because of a death in the family:

Luna on motion of Davis.

The following member was granted leave of absence for today because of important business in the district:

Rodriguez on motion of Kubiak.

The following member was granted leave of absence for today because of a death in the family:

Wilson on motion of Hightower.

(Goolsby now present)

### **HR 45 - ADOPTED (by Williams)**

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 45**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 45**, Honoring Grant Irons for his athletic and scholastic achievements.

**HR 45** was adopted without objection.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Kubiak who presented Dr. Henry J. Boehm of Brenham as the "Doctor for the Day."

The house welcomed Dr. Boehm and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Kuempel in the chair)

### **HR 164 - ADOPTED (by Pitts)**

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 164**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 164**, Welcoming members of Leadership Waxahachie on the occasion of their visit to the State Capitol.

**HR 164** was read and was adopted without objection.

**HR 165 - ADOPTED**

(by J. Jones)

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HR 165**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 165**, Honoring Duncanville fire fighters for their volunteer efforts.

**HR 165** was read and was adopted without objection.

(Speaker in the chair)

**HR 126 - ADOPTED**

(by Wise, et al.)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 126**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 126**, Honoring U.S. Congressman Ruben Hinojosa.

(Speaker pro tempore in the chair)

**HR 126** was read and was adopted without objection.

On motion of Representative Wise, the names of all the members of the house were added to **HR 126** as signers thereof.

**INTRODUCTION OF GUEST**

The speaker pro tempore introduced Congressman Ruben Hinojosa. Congressman Hinojosa addressed the house briefly.

(Speaker in the chair)

**PROVIDING FOR ADJOURNMENT**

Representative King moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of the Honorable H. O. Niemeyer of Uvalde, who served in the Texas House of Representatives from 1961 to 1964.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES  
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before

the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Davis in the chair)

### **ADJOURNMENT**

In accordance with a previous motion, the house, at 10:41 a.m., adjourned until 10 a.m. tomorrow.

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### **ADDENDUM**

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#### **REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

##### **List No. 1**

**HB 1312** (by Naishtat), Relating to modification of an order for outpatient mental health services and the temporary detention of a patient pending hearing on the modification.

To Public Health.

**HB 1313** (by Naishtat), Relating to the Probate Court No. 1 of Travis County.

To Judicial Affairs.

**HB 1314** (by Naishtat), Relating to a trust created for the management of a ward's assets.

To Judicial Affairs.

**HB 1315** (by Naishtat), Relating to an attorney who represents a ward, guardian, or other interested person in certain guardianship proceedings.

To Judicial Affairs.

**HB 1316** (by Naishtat), Relating to the investment of assets by the guardian of an estate.

To Judicial Affairs.

**HB 1317** (by Naishtat), Relating to guardianships of missing persons.

To Judicial Affairs.

**HB 1318** (by Naishtat, Greenberg, Maxey, Dukes, and Keel), Relating to benefits under, eligibility for benefits under, and investment of surplus funds of retirement systems for firefighters in certain municipalities.

To Pensions & Investments.

**HB 1319** (by Raymond), Relating to civil actions involving persons who file complaints with governmental agencies.

To State Affairs.

**HB 1320** (by Talton), Relating to the removal of a motor vehicle from a vehicle storage facility operated under the Vehicle Storage Facility Act.

To Transportation.

**HB 1321** (by Uher, et al.), Relating to the regulation of the practice of engineering; providing penalties.

To Licensing & Administrative Procedures.

**HB 1322** (by Uher), Relating to changing the name of the county tax assessor-collector to county comptroller.

To County Affairs.

**HB 1323** (by Luna), Relating to a fee collected by a prosecutor for collecting and processing a dishonored or forged check or similar sight order.

To Criminal Jurisprudence.

**HB 1324** (by Carter), Relating to the administration and financing of emergency communication districts.

To Public Safety.

**HB 1325** (by Stiles), Relating to the alternative fuels program.

To Environmental Regulation.

**HB 1326** (by Eiland), Relating to licensing requirements for certain insurance agents.

To Insurance.

**HB 1327** (by Nixon), Relating to the offense of barratry.

To Criminal Jurisprudence.

**HB 1328** (by Serna and Pickett), Relating to the designation of certain businesses as enterprise projects under the enterprise zone program.

To Economic Development.

**HB 1329** (by Danburg), Relating to the repeal of Section 21.06, Penal Code, prohibiting homosexual conduct.

To Criminal Jurisprudence.

**HB 1330** (by Naishtat), Relating to the creation and administration of a program to assist individuals who are deaf or hard of hearing or who have an impairment of speech to purchase specialized telecommunications devices for telephone service access.

To Human Services.

**HB 1331** (by Maxey, Delisi, Berlanga, Naishtat, Hirschi, et al.), Relating to certain nonprofit entities that provide health or long-term care or health benefit plans; providing a penalty.

To Public Health.

**HB 1332** (by Maxey), Relating to the collection of claims for recovery of money under subrogation and third-party reimbursement rights arising from medical payments by health and human services agencies.

To Human Services.

**HB 1333** (by Hochberg and Naishtat), Relating to the punishment for an offense motivated by bias or prejudice.

To Criminal Jurisprudence.

**HB 1334** (by Hochberg), Relating to a change of beneficiary by a retiree of the Teacher Retirement System of Texas.

To Pensions & Investments.

**HB 1335** (by Finnell), Relating to fishing license exemptions.  
To State Recreational Resources.

**HB 1336** (by Wise), Relating to the emergency protection of children.  
To Juvenile Justice & Family Issues.

**HB 1337** (by Wise), Relating to the powers and duties of a district attorney in locating certain children and parties in a suit affecting the parent-child relationship.

To Juvenile Justice & Family Issues.

**HB 1338** (by Junell, et al.), Relating to the purchase of directors' and officers' liability insurance by state agencies.

To State Affairs.

**HB 1339** (by Junell, et al.), Relating to insurance industry advisory organizations.

To Insurance.

**HB 1340** (by Junell), Relating to restrictions on certain actions involving the executive head of a state agency; providing a penalty.

To State Affairs.

**HB 1341** (by R. Lewis), Relating to the maintenance and preservation of public records filed with a county clerk and the collection and application of certain user fees.

To County Affairs.

**HB 1342** (by Rodriguez and Hernandez), Relating to length and load provision of a motor vehicle that is designed to be carried at the rear of a trailer.

To Transportation.

**HB 1343** (by Rodriguez, Rangel, et al.), Relating to the evaluation of tenured faculty at certain institutions of higher education.

To Higher Education.

**HB 1344** (by Rodriguez), Relating to review of the termination of certain insurance agents; providing an administrative penalty.

To Insurance.

**HB 1345** (by Uher), Relating to the issuance of an annual permit to move certain heavy equipment over a state highway.

To Transportation.

**HB 1346** (by Pickett), Relating to certain inactive licenses in the regulation of the real estate industry; imposing a fee.

To Licensing & Administrative Procedures.

**HB 1347** (by Alexander), Relating to the transfer of the school tax freeze on the homestead of an elderly person to a newly acquired homestead.

To Revenue & Public Education Funding, Select.

**HB 1348** (by G. Lewis), Relating to the appraisal of certain property conveyed in trust to a county bail bond board.

To Criminal Jurisprudence.

**HB 1349** (by Kamel), Relating to the ability of the Texas Department of Criminal Justice to enter into contracts for inmate labor that provide inmates with access to personal information about persons who are not confined.

To Corrections.

**HB 1350** (by Denny, et al.), Relating to eligibility requirements for clerks serving at a central counting station.

To Elections.

**HB 1351** (by Denny, et al.), Relating to filling a vacancy in the office of precinct chairman of a political party.

To Elections.

**HB 1352** (by Goodman, Cuellar, Gallego, Thompson, and Stiles), Relating to the appointment, election, and retention or rejection of appellate justices and judges.

To Judicial Affairs.

**HB 1353** (by Garcia and Hodge), Relating to a road maintenance fee paid by mass transit authorities.

To Urban Affairs.

**HB 1354** (by Chisum), Relating to authorizing plans for unit operations for oil and gas production.

To Energy Resources.

**HB 1355** (by Counts), Relating to selection by a governmental entity of a provider of professional services.

To State Affairs.

**HB 1356** (by Counts), Relating to licensing of funeral prearrangement life insurance agents.

To Insurance.

**HB 1357** (by Giddings), Relating to the recovery of costs incurred when certain driving violations are dismissed.

To Transportation.

**HB 1358** (by Hunter), Relating to the requisition for the return of a person charged with crime in this state.

To Criminal Jurisprudence.

**HB 1359** (by Tillery), Relating to recall elections.

To Natural Resources.

**HB 1360** (by Tillery), Relating to the liability of public servants for damages arising from abuse of office.

To Civil Practices.

**HB 1361** (by Alexander), Relating to administrative and judicial review of property tax determinations.

To Ways & Means.

**HB 1362** (by Giddings), Relating to exemptions from regulation as a food manufacturer or wholesaler.

To Public Health.

**HB 1363** (by Maxey), Relating to dental health maintenance organizations. To Insurance.

**HB 1364** (by Maxey), Relating to the prevention and recovery of benefits granted in error under the food stamp program and the program of financial assistance for persons with dependent children.

To Human Services.

**HB 1365** (by Talton), Relating to the admissibility of evidence in criminal cases.

To Criminal Jurisprudence.

**HB 1366** (by Talton, Hightower, and Gutierrez), Relating to prohibiting employment discrimination against certain peace officers for refusing to take a polygraph examination.

To Public Safety.

**HB 1367** (by Hirschi and Maxey), Relating to reporting by the Texas Natural Resource Conservation Commission and the attorney general on environmental enforcement actions.

To Environmental Regulation.

**HB 1368** (by Madden), Relating to eligibility for publicly subsidized health care services.

To Public Health.

**HB 1369** (by Howard), Relating to one-stop permitting for solid waste management facilities.

To Environmental Regulation.

**HB 1370** (by Garcia), Relating to the punishment for the offense of criminal mischief.

To Criminal Jurisprudence.

**HB 1371** (by Naishtat, et al.), Relating to coverage of benefits for mental health services by certain managed care plans.

To Insurance.

**HB 1372** (by Wilson), Relating to mergers with and acquisitions of certain utilities by certain other utilities.

To Energy Resources.

**HB 1373** (by B. Turner and Walker), Relating to the adoption or increase of local sales and use taxes by a municipality or county in which previous elections adopting the taxes are invalid.

To Ways & Means.

**HB 1374** (by Zbranek), Relating to political contributions from one general-purpose committee to another.

To Elections.

**HB 1375** (by Marchant), Relating to the definition of instrument for purposes of a secured transaction.

To Financial Institutions.

**HB 1376** (by Marchant), Relating to credit and benefits for legislative members of the Employees Retirement System of Texas.



To Pensions & Investments.

**HB 1377** (by Maxey and Coleman), Relating to drug benefits available under certain health care programs administered by the Texas Department of Health.

To Public Health.

**HB 1378** (by Hirschi), Relating to a donated dental services program for certain individuals.

To Public Health.

**HB 1379** (by Chavez), Relating to vehicle emissions inspection and maintenance requirements applicable to certain commercial trucks.

To Environmental Regulation.

**HCR 82** (by Carter), Declaring the chiltepin the official State Native Pepper of Texas.

To State, Federal & International Relations.

**HCR 83** (by Hochberg), Designating buckminsterfullerene the official State Molecule of Texas.

To State, Federal & International Relations.

**HCR 84** (by Counts), Honoring Rick Crawford for his service to the State Preservation Board.

To Rules & Resolutions.

**HCR 85** (by Hightower), Granting Dan Beto and Donna Beto permission to be buried in the Texas State Cemetery.

To State, Federal & International Relations.

**HCR 86** (by Hirschi and Finnell), Requesting the placement of a marker in the Texas State Cemetery in memory of the Honorable Dave Allred.

To State, Federal & International Relations.

**HCR 87** (by Telford, Stiles, and Hightower), In memory of the Honorable Alex H. Short, Jr.

To Rules & Resolutions.

**HJR 74** (by Uher), Proposing a constitutional amendment to change the name of the county tax assessor-collector to county comptroller.

To County Affairs.

**HJR 75** (by Goodman, Cuellar, Gallego, Thompson, et al.), Proposing a constitutional amendment providing for gubernatorial appointments to fill vacancies in the offices of appellate justices and judges, for a partisan election followed by retention elections on a nonpartisan ballot for those justices and judges, and for the appointment of district judges in accordance with certain standards.

To Judicial Affairs.

**HR 166** (by Yarbrough), Declaring Scott Schuman an honorary Texan.

To Rules & Resolutions.

**HR 167** (by Seaman), In memory of Ralph Burgess.

To Rules & Resolutions.

**SB 59** to Human Services.

**SB 203** to Corrections.

**SB 211** to Economic Development.

**SB 229** to Licensing & Administrative Procedures.

**SB 303** to Transportation.

### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

#### **Message No. 1**

#### **MESSAGE FROM THE SENATE**

#### **SENATE CHAMBER**

Austin, Texas

Tuesday, February 18, 1997

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

#### **THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**SB 231** Carona

Relating to sources of names for the jury wheel.

**SB 264** Zaffirini

Relating to the treatment of persons with mental illness.

**SB 305** Zaffirini

Relating to the interagency council on early childhood intervention.

Respectfully,

Betty King

Secretary of the Senate

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### **APPENDIX**

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#### **STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

February 17

Ways & Means - **HB 16, HB 41, HB 655**

#### **SENT TO THE GOVERNOR**

February 17 - **HCR 57, HCR 68, HCR 69**